

Dock 95-92

WEIL, GOTSHAL & MANGES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

767 FIFTH AVENUE
NEW YORK, N.Y. 10153
(212) 310-8000
TELECOPIER: (212) 310-8007
CABLE: WEGOMA
TELEX: ITT 424281
ITT 423144

901 MAIN STREET
SUITE 4100
DALLAS, TEXAS 75202
(214) 746-7700
TELECOPIER: (214) 746-7777

1615 L STREET, N.W.
WASHINGTON, D.C. 20036
(202) 682-7000
TELECOPIER: (202) 857-0939
(202) 857-0940
TELEX: ITT 440045
WRITER'S DIRECT LINE

(202) 682-7228

1600 FIRST REPUBLIC BANK CENTER
700 LOUISIANA
HOUSTON, TEXAS 77002
(713) 546-5000
TELECOPIER: (713) 224-9511
TELEX: ITT 4620144

701 BRICKELL AVENUE
MIAMI, FLORIDA 33131
(305) 577-3100
TELECOPIER: (305) 374-7159

June 11, 1990

Donna R. Searcy
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

JUN 11 1990

Federal Communications Commission
Office of the Secretary

RE: Docket DA 89-1060

DOCKET FILE COPY ORIGINAL

Dear Secretary Searcy:

On June 8, 1990 VidCode Inc. filed a Response of Vidcode, Inc. in Support of VidCode's Motion to Withdraw Nielsen's Temporary Authority. Attached to that documents was a faxed copy of the signed affidavit by Leonard D. Keene. For your files, we enclose the original of that affidavit.

Respectfully submitted,


Ronald W. Kleinman

Enclosure

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of:)
Request of A.C. Nielsen Co.)
for Permissive Use of Line)
22 of the Active Portion of)
the Television Video Signal)

DA 89-1060

RECEIVED

CITY OF NEW YORK)
STATE OF NEW YORK) ss:

JUN 11 1990

Federal Communications Commission
Office of the Secretary

AFFIDAVIT OF LEONARD D. KEENE

LEONARD D. KEENE, being duly sworn, deposes and
says:

1. I am currently employed by VidCode Inc,. and
presently hold the title of Vice President for Engineering.
I have been employed by VidCode for the past 11 months. By
training, I am an engineer, having received a Bachelor of
Science in Electrical Engineering from Northeastern
University. Prior to my employment with VidCode, I have
been an engineer for 25 years in the computer industry,
generally involved in digital engineering. My functions at
VidCode require that I understand the methods by which local
broadcast stations record, reproduce and broadcast
television programming and commercial materials. In
particular, these functions require that I be fully aware of
and understand the equipment used by the local broadcasters
for these purposes.

2. At the request of VidCode's attorneys, I have reviewed the various pleadings of A.C. Nielsen Company filed in this proceeding. Nielsen's claim that there is widespread unintentional and uncontrollable "stripping" of data encoded on line 20 by Video Tape Recorders (VTRs) is inconsistent with my knowledge of the workings of the equipment at local broadcast stations and my independent contacts with representatives of the major manufacturers of this equipment. I am not aware of any facts which would support such claim.

3. Based on my personal knowledge of the market, there are four major suppliers of the recording, reproduction and rebroadcast equipment used at local stations: Ampex, Sony, Panasonic, and Odectics. These four companies are generally believed to represent between 70 and 90 percent of the market. I have personally contacted a representative of all but Ampex, all of whom assured me that their equipment is designed to faithfully reproduce line 20 if it is encoded. Any of their machines which is not reproducing line 20 faithfully could be adjusted to correct this.

4. This is true both for VTRs and the more important "carts" -- computerized automated video tape handling systems. VTRs, to the extent relevant, would be used to

copy programming distributed by satellite. This is one of the methods for distributing programming. In these circumstances, VTRs are commonly provided by the satellite distribution system so that the system can provide equipment automatically compatible with its satellite feed technology. There is no reason why these VTRs should automatically and uncontrollably strip line 20 encoding, although there may be a small number of obsolete ones which do strip line 20. In the major markets which Nielsen monitors on a regular basis, this number should be quite small and definitely should not exceed 20 to 50 units.

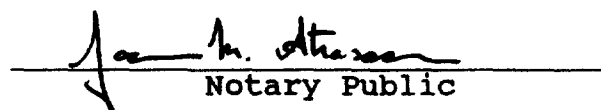
5. Many programs and commercials are also distributed by hardcopy master tape. In these circumstances, the stand-alone VTR is irrelevant, since it is not used. Rather, the local stations will copy the master through the cart onto a tape consistent with the cart's format. The cart then is used to traffic the video tapes onto the air at the correct time. In order to achieve this, at the time of copying, the cart places two pieces of information. On the tape cassette, the cart places a sticker indicating the name and other identification information. On the tape itself, the cart inserts cueing information. The placement of cueing varies from equipment, but as noted above, the major manufacturers of carts have told me that their machines

faithfully reproduce line 20 and do not automatically and uncontrollably place cueing information on line 20.

6. Both the VTRs and the carts (and other equipment) are tied together in the local station through time based correctors (TBCs). These TBCs allow the local station to modify any of the first 20 lines of the VBI. This is totally in the control and discretion of the local station. They can place TBC data on line 20 or on any other VBI line. Those TBC's which strip line 20 are set to do this by the local broadcasters for their own purposes. Any local broadcaster which wished to faithfully reproduce AMOL encoding on line 20 could easily set its TBCs to encode on any of lines 11 to 19 without affecting any data transmitted by syndicators of programs.


Leonard D. Keene

Sworn to and subscribed before
me this 7th day of June, 1990.


Notary Public

JOANNA M. STRASSMAN
NOTARY PUBLIC, State of New York
No. 31-4945540
Qualified in New York County
Commission Expires February 6, 1991